

Judge Ricardo S. Martinez

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA, *ex rel.*  
KAT NGUYEN-SELIGMAN,

Plaintiff,

v.

LENNAR CORPORATION, a Delaware  
corporation; UNIVERSAL AMERICAN  
MORTGAGE COMPANY, LLC, a Florida  
corporation; and EAGLE HOME  
MORTGAGE OF CALIFORNIA, INC., a  
California corporation,

Defendants.

CASE NO. 14-cv-1435-RSM

**FILED UNDER SEAL**

Noted for Consideration on:  
November 16, 2017

**UNITED STATES' EX PARTE APPLICATION**  
**FOR AN EXTENSION OF TIME**  
**TO CONSIDER ELECTION TO INTERVENE**

Pursuant to the False Claims Act, 31 U.S.C. § 3729–33 (FCA), the United States of America respectfully applies to the Court *ex parte* for an Order extending for four months, or until March 20, 2018, the period during which the United States will determine whether or not to intervene in this case, and for an extension of time during which this case will remain under seal. **Relator's counsel has been consulted and concurs with this request.**

UNITED STATES' EX PARTE APPLICATION  
FOR AN EXTENSION OF TIME - 1  
(CASE NO. 14-cv-1435-RSM)  
**FILED UNDER SEAL**

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## **PROCEDURAL HISTORY**

On or about September 18, 2014, Relator Kat Nguyen-Seligman filed the Complaint in this action under seal under the *qui tam* provisions of the FCA, 31 U.S.C. § 3730, which permit individuals to file actions on behalf of the United States, alleging violations of the FCA. The Relator completed service on the United States on or about September 23, 2014. The FCA expressly contemplates that the government's investigative period may be extended more than once upon a showing by the United States of "good cause." *Id.* § 3730(b)(3). This is the government's seventh request for an extension of the seal, which is currently scheduled to expire on November 20, 2017.

## **THE RELATOR'S ALLEGATIONS**

As the Court is aware, Defendant Lennar Corporation (Lennar) is a Delaware Corporation headquartered in Miami, Florida that builds homes throughout the United States, including homes in the Western District of Washington. Defendant Universal American Mortgage Company, LLC, (UAMC) is a subsidiary of Lennar and provides financing and related services to buyers of homes built by Lennar. Eagle Home Mortgage of California (Eagle Home) is also a subsidiary of Lennar, which provides financing and related services to homebuyers. The entities are hereafter referred to collectively as "the Lennar Companies."

The United States Department of Housing and Urban Development (HUD) insures the Lennar Companies' home mortgages. Under HUD's mortgage insurance program, if a homeowner defaults on a loan and the mortgage holder forecloses on the property, HUD

1 pays the mortgage holder the balance of the loan, and then assumes ownership and  
 2 possession of the property. Relator alleges, among other schemes, that the Lennar  
 3 Companies failed to undertake meaningful quality control for a significant portion of its  
 4 HUD-insured loans. Relator alleges that the Lennar Companies failed to sufficiently  
 5 perform required due diligence on HUD-insured loans, including, but not limited to: (1)  
 6 failing to investigate loans flagged by auditors as violating HUD guidelines; (2) failing to  
 7 verify information provided in loan files; and (3) failing to ensure that funds used to close a  
 8 loan were properly traced.<sup>1</sup> Relator alleges that these practices resulted in the Lennar  
 9 Companies' certification of thousands of ineligible mortgages to HUD.

### 13 THE GOVERNMENT'S INVESTIGATION

14 As the Court knows, the government was investigating the Lennar Companies' loan  
 15 practices prior to the filing of Relator's suit. Prior to the filing of Relator's suit, the  
 16 government issued two HUD administrative subpoenas for documents and one Civil  
 17 Investigative Demand (CID) requesting answers to interrogatories.<sup>2</sup> After Relator filed suit,  
 18 the government promptly interviewed Relator and reviewed the documents provided by the  
 19 Relator.  
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24 <sup>1</sup> Tracing is important because it ensures that funds used to secure a mortgage are from an allowable source. Using  
 25 funds from an unallowable source may mislead the lender, and eventually HUD, as to the potential mortgage holder's  
 credit risk.

26 <sup>2</sup> The United States may issue a CID "[w]hensoever the Attorney General, or a designee, has reason to believe that any  
 27 person may be in possession, custody, or control of any documentary material or information relevant to a false claims  
 law investigation . . . ." 31 U.S.C. §3733(a)(1).  
 28

1 Since the last extension of the seal in this matter, the government and the Lennar  
2 Companies have negotiated extensively to attempt to reach consensus as to which documents  
3 the government requires to conclude its investigation. During this time period the Lennar  
4 Companies have produced over 25,000 pages of documents and the government is currently  
5 reviewing that material.<sup>3</sup> Despite continuing differences with respect to what, if any,  
6 additional outstanding documents the Lennar Companies should produce, in an effort to  
7 bring the government's investigation to a conclusion, the parties have agreed to set aside  
8 those disagreements and meet to discuss the result of the investigation. The government has  
9 agreed to present the results of its investigation to the Lennar Companies on January 18,  
10 2018. In the interim period the government will conclude its review of documents recently  
11 produced by the Lennar Companies. The government is hopeful that the presentation will  
12 result in the conclusion of the government's investigation.

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14 As noted at the outset, Relator's counsel has been consulted and has no objection to  
15 this request for additional time.

#### 16 17 ARGUMENT AND AUTHORITIES

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19 The FCA expressly contemplates the United States obtaining extensions of time to  
20 make its intervention decision in *qui tam* actions. See 31 U.S.C. § 3730 (b)(3) (the United  
21 States "may, for good cause shown, move the court for extensions of time . . ."). For the

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27 <sup>3</sup> The government had hoped that the sixth extension would be its last. However, differences between the parties as to  
28 what documents should be produced persisted. Now with some additional documents the government is hopeful that its  
presentation to the Lennar Companies will conclude its investigation.

1 reasons set forth above, the government contends that the "good cause" standard is satisfied  
 2 in this case.

3  
 4 The United States also respectfully requests that the Court order that the Complaint  
 5 and other filings be kept under seal through March 20, 2018, unless otherwise ordered by the  
 6 Court. Such an extension of the seal is contemplated by, and consistent with, the express  
 7 terms of the FCA. *See* 31 U.S.C. § 3730(b)(3). Experience demonstrates that concluding a  
 8 non-judicial resolution of this matter, should the facts so warrant, will be facilitated if  
 9 Relator's allegations have not yet been publicly disseminated.  
 10

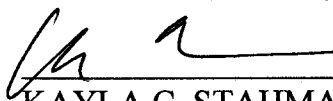
### 11 CONCLUSION

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 13 Accordingly, the United States requests that the Court enter an Order extending for  
 14 four months, until and including March 20, 2018, the period for the United States to make its  
 15 decision whether to intervene in this case and providing that during this time the case will  
 16 remain under seal.  
 17

18 Dated this 16th day of November, 2017.

19  
 20 Respectfully submitted,

21 ANNETTE L. HAYES  
 22 United States Attorney

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